



## UNIVERSITY of VIRGINIA

## OFFICE FOR EQUAL OPPORTUNITY AND CIVIL RIGHTS

Title IX Office, O'Neil Hall, Terrace Level, Room 037 • 445 Rugby Road • Charlottesville, VA 22904 • (434) 297-7988

August 8, 2018

**Via Hand Delivery and Electronic Mail**[REDACTED]  
[REDACTED]**RE:    Notice of Investigation**

Dear [REDACTED]

I am writing to inform you that the University of Virginia ("University") has initiated a Title IX investigation in a matter involving you. This letter includes information about the nature of the reported incident, the potential policy violations at issue, the procedures that apply to this investigation, the assigned investigator, expectations and responsibilities of the parties, and other information about the investigative process. Please note that you are considered to be the Respondent in this matter.

**Nature of Report, Potential Policy Violations, and Standard of Review**

On August 2, 2018, the University received a report from the Charlottesville Police Department that alleged that in the evening of April 14, 2017 or early morning of April 15, 2017, you sexually assaulted [REDACTED] who is considered to be the Complainant in this matter, by penetrating her vagina with your penis without her consent. On August 6, 2018, the University convened an Evaluation Panel and performed an assessment of all reported and available information consistent with Section V of the Procedures for Reports Against Students. As a result of that meeting, the Title IX Coordinator is initiating Formal Resolution.

This report raises potential policy violations under the University's Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence ("the Title IX Policy") for: Sexual Assault and Sexual Harassment. Other potential violations of the Title IX Policy, the Preventing and Addressing Discrimination and Harassment Policy ("PADH Policy"), and/or the University's Standards of Conduct may be identified during the investigation of the reported incident. Should additional potential policy violations be identified, an Amended Notice of Investigation will be issued to both parties, and both parties will be provided an opportunity to respond.

Where the Title IX Coordinator determines that a single investigation is appropriate, the determination of responsibility for the violation of University policy will be evaluated under the applicable policy (i.e., the Title IX Policy, the PADH Policy, and/or the Standards of Conduct), but the investigation and resolution will be conducted in accordance with the Procedures for Reports Against Students, Appendix A ("the Procedures"), including the requirement for use of the preponderance of the evidence standard. This means that all allegations, including allegations of

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*Ensuring equal opportunity and protecting the civil rights of all University community members through proactive outreach, education, and effective response and resolution.*

any Standards of Conduct violations in this process, will be decided using the preponderance of the evidence (i.e., what more likely than not occurred) standard. See Section VI (A)(1)(b) & (n) of the Procedures.

### **Procedures**

The reported incident, which allegedly occurred on or about April 14-15, 2018, will be investigated and resolved under the University's Formal Resolution option, which is outlined in Section VI (A) of the Procedures. The University seeks to investigate and resolve matters pursuant to the Procedures within 60 calendar days of the date of this notice. Should extensions of time need to be granted for good cause shown, you will be notified in writing. I have enclosed a copy of the Title IX Policy, the Procedures, and a Resource Guide outlining University and community resources available to students. Should you have any questions about these materials, you may contact me or the investigator assigned to this matter.

### **Procedure for Requesting Reasonable Accommodations**

If you are an individual with a disability and need a reasonable accommodation in order to fully and effectively participate in the University's Title IX formal investigation and resolution process, please notify me as soon as possible. I will work with the University's Student Disabilities Access Center (SDAC) to ensure reasonable accommodations are provided. While such requests may be made at any point during the process, individuals are strongly encouraged to make their requests known at the earliest possible time and, if possible, five business days in advance of an anticipated activity where the accommodation is needed (such as an interview or hearing).

### **Assigned Investigator**

I have designated John Flood, Title IX Investigator, to investigate this matter. If you believe Mr. Flood has an actual conflict of interest, please notify me in writing, by email, within 72 hours of the date of this notice to challenge his participation. The email must contain specific grounds for the challenge. Upon receipt of any challenge, I will make a determination whether there is sufficient information to find a conflict of interest and notify you of my decision in writing, by email, with the name of a new investigator if I determine that a conflict of interest exists.

### **Overview of Investigative Process**

During the investigation, you and Complainant will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit any questions that you believe should be directed by the investigators to the other parties or to any witness. The investigator will notify and seek to meet separately with you, Complainant, and third-party witnesses and will seek to gather other relevant and available evidence and information, including electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email, and social media sites), photographs (including those stored on computers and smartphones), and medical records

(subject to the written consent of the applicable party). In preparation for the investigation, please preserve any potentially relevant evidence in any form.

Neither you nor Complainant is required to participate in the investigation or any form of resolution under the Title IX Policy or the Procedures. As provided in the Title IX Policy, you are presumed to be not responsible; however, this presumption may be overcome where the Review Panel concludes by a preponderance of the evidence (i.e., what more likely than not occurred) that there is sufficient evidence to determine that you violated the Title IX Policy, the PADH Policy, and/or the Standards of Conduct. Mr. Flood will not draw any adverse inference from a decision by you or Complainant not to participate in the investigation. The investigation and formal resolution, however, may proceed, and a finding of responsibility and imposition of any sanction(s) may occur with or without such participation.

### **Expectations and Responsibilities**

As set forth in Section III of the Procedures, you and Complainant can expect the following during the University's investigation and resolution of the reported incident:

- A. Prompt and equitable resolution of allegations of Prohibited Conduct;
- B. Privacy in accordance with the Policy and any legal requirements;
- C. Reasonably available interim remedial measures, as described in the Procedures and Resource and Reporting Guide for Students;
- D. Freedom from retaliation for making a good faith report of Prohibited Conduct or participating in any proceeding under the Title IX Policy;
- E. The responsibility to refrain from Retaliation directed against any person for making a good faith report of Prohibited Conduct or participating in any proceeding under the Title IX Policy;
- F. The responsibility to provide truthful information in connection with any report, investigation, or resolution of Prohibited Conduct under the Title IX Policy;
- G. The opportunity to articulate concerns or issues about proceedings under the Title IX Policy or the Procedures;
- H. Timely notice of any meeting or proceeding at which your presence is contemplated by the Procedures;
- I. The opportunity to choose an advisor, including the right to have that advisor attend any meeting or proceeding at which the party's presence is contemplated by the Procedures;
- J. This written notice of investigation, which includes notice of the potential policy violations and nature of the alleged Prohibited Conduct;
- K. The opportunity to challenge the investigator or any member of the Review Panel for bias or conflict of interest;

- L. The opportunity to offer information, present evidence, and identify witnesses during an investigation;
- M. The opportunity to be heard, orally and/or in writing, as to the determination of a policy violation and the imposition of any sanction(s);
- N. Timely and equal access to any information that will be used during the Formal Resolution proceedings and related meetings;
- O. Reasonable time to prepare any response contemplated by the Procedures;
- P. Written notice of any extension of time frames for good cause; and
- Q. Written notice of the outcome of any Formal Resolution proceedings, including the determination of a policy violation, imposition of any sanction(s), and the rationale for each.

### **Prohibition Against Retaliation**

The University takes every report of Prohibited Conduct seriously. Retaliation is strictly prohibited and constitutes a violation of University policy. Retaliation means any adverse action taken against a person for making a good faith report of Prohibited Conduct or participating in any Title IX proceeding. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under the Title IX Policy. Please immediately report any concerns about retaliation to me.

You should expect a direct communication from Mr. Flood about next steps very soon. The investigator will be your primary point of contact during the investigation. However, please feel free to contact me at (434) 297-7643 or at [ecb6y@virginia.edu](mailto:ecb6y@virginia.edu) if you have any questions or concerns.

Sincerely,

*Emily Babb*

Emily Babb

Assistant Vice President for Title IX Compliance/Title IX Coordinator

Enclosures (5)

The Title IX Policy

Appendix A: Procedures for Reports Against Students

Appendix A-1: Resource and Reporting Guide for Students

Path of a Report

Advisor Information

cc: John Flood, Title IX Investigator; Allen Groves, University Dean of Students